IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 33 OF 2005

Shonali Shailesh Jaywant .. Applicant

Vs.

Shailesh Chandrashekhar Jaywant .. Respondent

Mr. V.B. Tapkir for applicant.
Mr. S.M. Oak with Mr. Amber Joshi for Respondent.

CORAM: B.H. MARLAPALLE, J.

Date : August 10, 2005.

P.C.:

1. Parties were married on 9/5/1997 as per Hindu Vedic rites at Thane and they begot a son by name Nakul on 19/8/2000. The matrimonial disputes cropped up and the applicant-wife shifted to her parental home at Pune and consequently she filed Petition D. No.198 of 2001 in the Family Court at Pune for maintenance and for appointment of guardian of her minor son. An order was passed in the said petition on 29/3/2004, but in the meanwhile respondent-husband moved Marriage Petition No.80 of 2003 before the District Court at Thane for restitution of conjugal rights under Section 9 of the Hindu Marriage Act 1955. By this application the wife prayed for transfer of the said Marriage

Petition to the Family Court at Pune.

2. During the course of hearing it was suggested to the parties to sit together and discuss the modalities for settlement of the matrimonial disputes and the spouses were satisfied that their marriage has reached at abrogate stage and, therefore, they agreed to separate by consent.

3. With the assistance of the learned Advocates, the spouses carried out their discussions and finalised the terms of settlement leading to a divorce by consent. The consent terms have been placed on record and have been duly signed by both the parties. List of articles, received by the wife, is also annexed to the consent terms and the husband has indicated that he has no articles to receive from the applicant-wife. The consent terms are marked as "X" for identification.

4. As per the terms of the settlement both the parties have agreed to withdraw the allegations and counter allegations made against each other. They have declared that their marriage stands dissolved by

mutual consent. The husband has agreed to pay an amount of Rs.5 lacs as and by way of permanent alimony to the wife. The details of the payment schedule have been set out in the consent terms. The wife will continue to act as guardian for minor son in terms of the order passed by the Family Court at Pune on 29/3/2004 and the husband, in turn, has agreed that he would not claim custody or guardianship of the son. The respondent has also given up his right of access to his son. The parties have also stated that these consent terms be also treated as a consent decree of divorce by mutual consent within the meaning of Section 13B of the Hindu Marriage Act, 1955. This application has been filed under Section 21A of the said Act and, therefore, efforts were made for the best possible compromise in the interest of both the parties and these efforts have fortified with the able assistance of the learned Advocates.

5. It is hereby ordered that the consent terms shall be binding on the parties and they shall abide by the same. Decree of divorce will be passed in Marriage Petition No.80 of 2003 by the learned Civil Judge, Senior Division, Thane on receipt of a copy of

this order and by converting the same as a Petition under Section 13A of the Hindu Marriage Act. The husband agrees to remain present before the Civil Judge, Senior Division at Thane on 31/8/2005 and file an application for treating the pending Petition under Section 13A of the said Act. This Misc. Civil Application is accordingly disposed of in terms of the consent terms. Writ to go to the learned Civil Judge, Senior Division at Thane as well as the Judge of the Family Court at Pune along with a copy of the consent terms. Decree under Section 13A of the Act be passed expeditiously.

(B.H. Marlapalle,J.)